



PATENT
450101-4689

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicants : Gentaro Okayasu, et al.
Serial No. : 09/581,689
For : DEVICE CONTROL APPARATUS AND METHOD
Filed : June 19, 2001
Examiner : Saltarell, Dominic D.
Art Unit : 2623
Confirmation No. : 9687

745 Fifth Avenue
New York, NY 10151
(212) 588-0800

EXPRESS MAIL CERTIFICATE

Mailing Label Number: EV 895514963 US

Date of Deposit: December 27, 2006

I hereby certify that this paper or fee is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" Service under 37 CFR 1.10 on the date indicated above and is addressed to: **Mail Stop Appeal Brief, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.**

Barnett Shindler

(Typed or printed name of person mailing paper or fee)

Barnett Shindler

(Signature of person mailing paper or fee)

PRE-APPEAL BRIEF REQUEST FOR REVIEW

Mail Stop Appeal Brief
Commissioner For Trademarks
P.O. Box 1451
Alexandria, VA 22313-1450

Sir:

Applicants request review of the Final Rejection dated June 30, 2006 in the above-captioned application. No amendments are being filed with this request. This request is being filed with a Notice of Appeal. Please consider the reasons stated herein.

REASONS FOR REQUEST

Claims 23, 31, 39, 45, 51, 57, 65, 73, 78, 83, 89, 90, 97, 103, 109, 114, 119, 124, 129 and 136 were rejected under 35 U.S.C. § 112, first paragraph.

Claims 23-25, 28, 29, 31-33, 36, 37, 57, 58, 60-63, 65, 66, 68-71, 73, 74, 76-79, 81-86, 89-93, 96, and 119-143 were rejected under 35 U.S.C. § 102(e) as allegedly anticipated by U.S. Patent 5,913,227 to Raz et al. (hereinafter, merely “Raz”).

Claims 26, 27, 34, 35, 39-43, 45-48, and 51-54 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Raz in view of U.S. Patent 6,430,592 to Davison (hereinafter, merely “Davidson”).

Claims 30, 38, 64, 72, 87, 88, 94, and 95 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Raz in view of U.S. Patent 5,528,282 to Voeten et al. hereinafter, merely “Voeten”).

Claims 44, 50, and 56 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Raz in view of Davison and further in view of Voeten.

Claims 49 and 55 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Raz in view of Davison and further in view of U.S. Patent 5,301,324 to Dewey et al. (hereinafter, merely “Dewey”).

Claims 59 and 67 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Raz.

Claims 75 and 80 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Raz in view of U.S. Patent 6,278,717 to Arsenault et al. (hereinafter, merely “Arsenault”).

Claims 97, 98, 102-104, and 108-118 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Raz in view of U.S. Patent 5,935,206 to Dixon et al. (hereinafter, merely “Dixon”).

Claims 99-101 and 105-107 were rejected under 35 U.S.C. § 103(a) as allegedly unpatentable over Raz in view of Dixon and further in view of Dewey.

Claim 23 recites, *inter alia*:

“A control apparatus for controlling the state of use of a plurality of control targets, the apparatus comprising:

...wherein the upper control terminal means are connected through a network to controllers which are directly connected to said plurality of control targets; the control target allocation control means being located in the controllers.” (emphasis added)

ARGUMENTS

The §112 Rejections Should be Withdrawn Because the Cited Portions of the Specification Disclose Each and Every Element Recited in the Claims

Applicants respectfully traverse the 35 U.S.C. § 112, first paragraph rejections.

Applicants submit that, as shown in Figure 1, a transmission broadcast system where application computers (upper control terminals 11-13) are connected through a local area network 15 to a hierarchy of controllers, device sub controllers 17, 18 and 19, which manage and control through direct connections the processing sections (control targets: reference numbers 31-34 and 41-44) of several AV servers 30, 40.

Applicants submit that, as shown in Figures 4 and 6, upper control terminal 11, 12, 13 issues a reservation command to the execution management task 71.

Therefore, Applicants respectfully request that the 35 U.S.C. §112, first paragraph rejections be withdrawn from consideration.

**The §102 Rejections Should be Withdrawn Because the
Cited References Do Not Disclose Each and Every Element
Recited in the Claims**

It is respectfully submitted that Raz fails to provide the disclosure of claim 23.

On pages 5-6 of the Office Action, it cites column 5, lines 26-33 of Raz, which states,
“...management module can be either centralized or distributed. If it is distributed, some communication mechanisms will be needed to distributed the table identifying ownership etc. to all hosts where it is can be then stored locally...the table could be updated whenever a host makes an open file request...part of the process of opening the file could also check ownership information that is stored in the centralized location.”

Applicants respectfully submit that Raz fails to teach or suggest the features of claim 23. Specifically, Applicants submit that there is no teaching or suggestion of a control apparatus for controlling the state of use of a plurality of control targets wherein the upper control terminal means are connected through a network to controllers which are directly connected to said plurality of control targets; the control target allocation control means being located in the controllers, recited in claim 23.

Indeed, Applicants submit that a distributed management module identifying ownership, etc. to hosts where it could be updated whenever a host makes an open file request as part of the process of opening the file and could also check ownership information that is stored in the centralized location includes no suggestion of control terminal means connected through a network to controllers which are directly connected to said plurality of control targets and the control target allocation control means are located in the controllers.

Therefore, Applicants respectfully submit that claim 23 is patentable.

For reasons similar to those described above with regard to independent claim 23, independent claims 31, 39, 45, 51, 57, 65, 73, 78, 83, 89, 90, 97, 103, 109, 114, 119, 124, 129 and 136 are also believed to be patentable.

Therefore, Applicants submit that independent claims 23, 31, 39, 45, 51, 57, 65, 73, 78, 83, 89, 90, 97, 103, 109, 114, 119, 124, 129 and 136 are patentable.

Applicants respectfully assert that none of the cited references disclose the physical structure of the broadcast system shown in Figure 1 and recited in the present claims. Therefore, for at least this reason, Raz, Voeten, Davison, Dixon, Dewey, and Arsenault fail to anticipate or obviate the present invention and the rejected claims should now be allowed.

The other claims are each dependent from one of the independent claims discussed above and are therefore believed patentable for at least the above-identified reasons.

Applicants respectfully request early passage to issue of the present application.

Please charge any additional fees or credit any overpayment by reason of this request to Deposit Account No. 50-0320.

Respectfully submitted,

FROMMER LAWRENCE & HAUG LLP
Attorneys for Applicants

By:



Thomas F. Presson
Reg. No. 41,442
(212) 588-0800